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9 Attorney for Plaintiff
10 MICHAEL GRECCO PRODUCTIONS, INC.

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12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15
16 MICHAEL GRECCO
17 PRODUCTIONS, INC.,

18 Plaintiff,

19 V.

20 TIKTOK INC.,

21 Defendant.

22 Civil Action No. 2:24-cv-04837

23
24 **SECOND AMENDED
COMPLAINT**

25 Plaintiff Michael Grecco Productions, Inc. ("Plaintiff") sues TikTok Inc.
("Defendant"), and alleges as follows:

THE PARTIES

1. Plaintiff is a corporation organized and existing under the laws of the State of California with a principal place of business at 3103 17th Street, Santa Monica, CA 90405.

2. Defendant is a corporation organized and existing under the laws of the State of California with its principal place of business located at 5800 Bristol Parkway, Suite 100, Culver City, CA 90230. Defendant's agent for service of process is 1505 Corporation CSC – LAWYERS INCORPORATING SERVICE, 2710 Gateway Oaks Drive, Sacramento, CA 95833.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to
28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because it maintained sufficient minimum contacts with this State such that the exercise of personal jurisdiction over it would not offend traditional notions of fair play and substantial justice.

5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a)

1 because Defendant or its agents reside or may be found in this district. “The Ninth
2 Circuit has interpreted Section 1400(a) to mean that venue is proper in any judicial
3 district in which the defendant would be amenable to personal
4 jurisdiction.” Righthaven LLC v. Inform Techs., Inc., No. 2:11-CV-00053-KJD-
5 LRL, 2011 U.S. Dist. LEXIS 119379, at *8 (D. Nev. Oct. 14, 2011) (citing Brayton
6 Purcell LLP v. Recordon & Recordon, 606 F.3d 1124, 1128 (9th Cir. 2010)).
7
8 Venue is thus proper in this District because personal jurisdiction exists over
9
10 Defendant in this District.

FACTS

I. Plaintiff's Business

6. Plaintiff is a celebrity photography agency, owned and operated by award-winning photojournalist Michael Grecco, that is hired by top-tier media outlets to take photographs of celebrities. Mr. Grecco has photographed legendary musicians, actors, directors, Olympians, technologists, comedians, athletes, fashion models and automobiles – such as Johnny Cash, Steven Spielberg, Will Smith, Chris Rock, Penelope Cruz, Steve Martin, Olympian Janet Evans, the SnapChat Founders, and Porsche’s 911 sports automobile.

7. Mr. Grecco's photographs are widely published in some of the world's most prominent magazines, including but not limited to, *Vanity Fair*, *Rolling Stone*, *ESPN Magazine*, *Time*, *Forbes* and *Esquire*.

1 8. Using state-of-the-art equipment and signature lighting techniques,
2 Mr. Grecco creates high-end photography licensed by some of the top publishers
3 in this Country. When commissioned for a job, Mr. Grecco spends countless hours
4 capturing hundreds of photographs and then processing those photographs to
5 ensure they meet customers' requirements.

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7 9. Plaintiff maintains a commercial website (<https://grecco.com/>) which
8 describes the photography services offered by Mr. Grecco, hosts a sample portfolio
9 of photographs taken and cinemagraphs created by Mr. Grecco, and invites
10 prospective customers to contact Plaintiff to arrange for a professional photo shoot.

11
12 10. Plaintiff owns the photographs and serves as the licensing agent with
13 respect to licensing such photographs. Plaintiff was formed in 1998 as "Michael
14 Grecco Photography, Inc." At that time, Mr. Grecco transferred the rights with
15 respect to his existing copyrights (pursuant to a written assignment agreement) to
16 Michael Grecco Photography, Inc. In 2012, the company name was formally
17 changed to Michael Grecco Productions, Inc. to accommodate for the expansion
18 into motion productions in addition to photography. Later, in 2014, Plaintiff
19 created "Michael Grecco Photography" as a d/b/a of Plaintiff.

20
21 11. Plaintiff licenses its photographs on an exclusive and non-exclusive
22 basis to top-tier media outlets. Plaintiff has licensed individual images of
23 celebrities for thousands of dollars to major top-tier outlets.

1 **II. The Work at Issue in this Lawsuit**

2 ***The First Photograph***

3 12. In 1997, Plaintiff created a professional photograph of New Zealand
4 actress Lucy Lawless as Xena the Warrior Princess titled
5 “19970506_Xena_Lawless_Lucy_MGP_0001” (the “First Photograph”). A copy
6 of the First Photograph is displayed below:
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23 13. The First Photograph was registered by Plaintiff with the Register of
24 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
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1 true and correct copy of the Certificate of Registration pertaining to the First

2 Photograph is attached hereto as **Exhibit “A.”**

3

4 ***The Second Photograph***

5 14. In 1997, Plaintiff created a professional photograph of New Zealand
6 actress Lucy Lawless as Xena the Warrior Princess titled
7 “19970506_Xena_lawless_lucy_MGP_0003” (the “**Second Photograph**”). A copy
8 of the Second Photograph is displayed below:



1 15. The Second Photograph was registered by Plaintiff with the Register
2 of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698.
3
4 A true and correct copy of the Certificate of Registration pertaining to the Work is
5 attached hereto as **Exhibit “A.”**
6

7 ***The Third Photograph***

8 16. In 1997, Plaintiff created a professional photograph of American
9 Actor Andy Garcia titled “19970503_Garcia_Any_MGP_0001” (the “Third
10 Photograph”). A copy of the Third Photograph is displayed below:
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23 17. The Third Photograph was registered by Plaintiff with the Register of
24 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
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1 true and correct copy of the Certificate of Registration pertaining to the Third
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3 Photograph is attached hereto as **Exhibit “A.”**
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The Fourth Photograph

5 18. In 1997, Plaintiff created a professional photograph of American
6 vocal girl group En Vogue titled “19910622_En_Vogue_MGP_0010” (the “Fourth
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8 Photograph”). A copy of the Fourth Photograph is displayed below:



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21 19. The Fourth Photograph was registered by Plaintiff with the Register
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23 of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698.
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1 A true and correct copy of the Certificate of Registration pertaining to the Fourth
2
Photograph is attached hereto as **Exhibit “A.”**
3

4 ***The Fifth Photograph***

5 20. In 1997, Plaintiff created a professional photograph of American new
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wave band ‘Til Tuesday titled
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“19850101_Til_Tuesday_Mann_Aimee_MGP_0006” (the “**Fifth Photograph**”).
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9 A copy of the Fifth Photograph is displayed below:
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21 21. The Fifth Photograph was registered by Plaintiff with the Register of
22 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
23 true and correct copy of the Certificate of Registration pertaining to the Fifth
24
Photograph is attached hereto as **Exhibit “A.”**
25

The Sixth Photograph

22. In 1997, Plaintiff created a professional photograph of American director and actor Quentin Tarantino titled “Tarantino_Quentin_MGP_003” (the “Sixth Photograph”). A copy of the Sixth Photograph is displayed below:



23. The Sixth Photograph was registered by Plaintiff with the Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A true and correct copy of the Certificate of Registration pertaining to the Sixth Photograph is attached hereto as **Exhibit “A.”**

1 ***The Seventh Photograph***

2 24. In 2002, Plaintiff created a professional photograph of Google
3 founders, Larry Page and Sergey Brin titled
4 “20021022_Google_Founders_MGP_0003” (the “Seventh Photograph”). A copy
5 of the Seventh Photograph is displayed below:
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21 25. The Seventh Photograph was registered by Plaintiff with the Register
22 of Copyrights on November 18, 2002 and was assigned Registration No. VAu 590-
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24
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1 445. A true and correct copy of the Certificate of Registration pertaining to the
2
3 Seventh Photograph is attached hereto as **Exhibit “B.”**

4 ***The Eighth Photograph***

5 26. In 1997, Plaintiff created a professional photograph of New Zealand
6 actress Lucy Lawless as Xena the Warrior Princess titled
7
8 “19970506_Xena_Lawless_Lucy_MGP_0043” (the “Eighth Photograph”). A
9 copy of the Eighth Photograph is displayed below:



1 27. The Eighth Photograph was registered by Plaintiff with the Register
2 of Copyrights on August 29, 2017 and was assigned Registration No. VA 2-064-
3 915. A true and correct copy of the Certificate of Registration pertaining to the
4 Eighth Photograph is attached hereto as Exhibit “C.”
5
6

7 ***The Ninth Photograph***

8 28. In 1997, Plaintiff created a professional photograph of New Zealand
9 actress Lucy Lawless as Xena the Warrior Princess titled
10 “19970506_Xena_Lawless_Lucy_MGP_0015” (the “Ninth Photograph”). A copy
11 of the Ninth Photograph is displayed below:
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29. The Ninth Photograph was registered by Plaintiff with the Register of
Copyrights on January 19, 2017 and was assigned Registration No. VA 2-030-740.
A true and correct copy of the Certificate of Registration pertaining to the Ninth
Photograph is attached hereto as **Exhibit “D.”**

The Tenth Photograph

30. In 1997, Plaintiff created a professional photograph of New Zealand
actress Lucy Lawless as Xena the Warrior Princess titled

1 “19970506_Xena_Lawless_Lucy_MGP_0005” (the “Tenth Photograph”). A copy
2 of the Tenth Photograph is displayed below:
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14 31. The Tenth Photograph was registered by Plaintiff with the Register of
15 Copyrights on January 19, 2017 and was assigned Registration No. VA 2-030-740.
16
17 A true and correct copy of the Certificate of Registration pertaining to the Tenth
18 Photograph is attached hereto as Exhibit “D.”
19

20 ***The Eleventh Photograph***

21 32. In 1998, Plaintiff created a professional photograph of American
22 actors Jerry O’Connell, Cleavant Derricks, Sabrina Anne Lloyd, and Charlie
23 O’Connell as the cast of the television series Sliders titled
24
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1 “19971209_Sliders_Cast_MGP_0008” (the “Eleventh Photograph”). A copy of
2 the Eleventh Photograph is displayed below:
3



18 33. The Eleventh Photograph was registered by Plaintiff with the Register
19 of Copyrights on August 20, 2017 and was assigned Registration No. VA 2-064-
20 693. A true and correct copy of the Certificate of Registration pertaining to the
21 Eleventh Photograph is attached hereto as **Exhibit “E.”**
22

24 ***The Twelfth Photograph***
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1 34. In 1998, Plaintiff created a professional photograph of American
2 actress Gillian Anderson titled “9930625_Anderson_Gillian_MGP_0006” (the
3 “Twelfth Photograph”). A copy of the Twelfth Photograph is displayed below:



18 35. The Twelfth Photograph was registered by Plaintiff with the Register
19 of Copyrights on July 27, 2017 and was assigned Registration No. VA 2-063-319.
20
21 A true and correct copy of the Certificate of Registration pertaining to the Twelfth
22
23 Photograph is attached hereto as **Exhibit “F.”**

24 ***The Thirteenth Photograph***
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¹⁷

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TELEPHONE (877) 437-6228

1 36. In 2008, Plaintiff created a professional photograph of American actor
2 and musician Johnny Depp titled “19940708_Depp_Johnny_MGP_0010” (the
3 “Thirteenth Photograph”). A copy of the Thirteenth Photograph is displayed
4 below:



19 37. The Thirteenth Photograph was registered by Plaintiff with the
20 Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-
21 736-729. A true and correct copy of the Certificate of Registration pertaining to
22 the Thirteenth Photograph is attached hereto as Exhibit “G.”

23
24 ***The Fourteenth Photograph***

38. In 2008, Plaintiff created a professional photograph of American singer Michael Jackson titled “19890127_Jackson_Michael_MGP_0005” (the “Fourteenth Photograph”). A copy of the Fourteenth Photograph is displayed below:



39. The Fourteenth Photograph was registered by Plaintiff with the Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-736-729. A true and correct copy of the Certificate of Registration pertaining to the Fourteenth Photograph is attached hereto as **Exhibit “G.”**

The Fifteenth Photograph

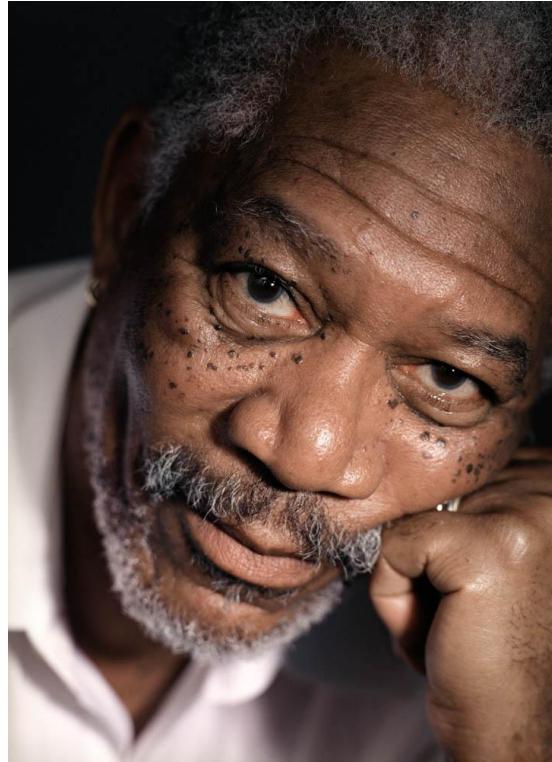
40. In 2008, Plaintiff created a professional photograph of American singer Michael Jackson titled “19890127_Jackson_Michael_MGP_0001” (the “Fifteenth Photograph”). A copy of the Fifteenth Photograph is displayed below:



12 41. The Fifteenth Photograph was registered by Plaintiff with the Register
13
14 of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-736-729.
15
16 A true and correct copy of the Certificate of Registration pertaining to the Fifteenth
17
18 Photograph is attached hereto as **Exhibit “G.”**

The Sixteenth Photograph

19 42. In 2004, Plaintiff created a professional photograph of American
20
21 Actor Morgan Freeman titled “20040525_Freeman_Morgan_MGP_0002” (the
22
23 “Sixteenth Photograph”). A copy of the Sixteenth Photograph is displayed below:
24
25



43. The Sixteenth Photograph was registered by Plaintiff with the
14 Register of Copyrights on May 28, 2004 and was assigned Registration No. VAU
15 630-623. A true and correct copy of the Certificate of Registration pertaining to
16 the Sixteenth Photograph is attached hereto as **Exhibit "H."**

18 ***The Seventeenth Photograph***

20 44. In 1980, Plaintiff created a professional photograph of British Rock
21 Band Siouxsie and the Banshees titled
22 “19800101_Siouxsie_and_the_Banshees_MGP_0001” (the “Seventeenth
23 Photograph”). A copy of the Seventeenth Photograph is displayed below:



10 45. The Seventeenth Photograph was registered by Plaintiff with the
11 Register of Copyrights on March 4, 2019 and was assigned Registration No. VA
12 1-397-398. A true and correct copy of the Certificate of Registration pertaining to
13 the Seventeenth Photograph is attached hereto as **Exhibit “I.”**

14
15 ***The Eighteenth Photograph***

16 46. In 1980, Plaintiff created a professional photograph of Singaporean
17 martial artist and actor Jet Li titled “19981009_Li_Jet_MGP_0006” (the
18 “Eighteenth Photograph”). A copy of the Eighteenth Photograph is displayed
19 below:



47. The Eighteenth Photograph was registered by Plaintiff with the
13 Register of Copyrights on December 10, 2001 and was assigned Registration No.
14 VA 1-148-989. A true and correct copy of the Certificate of Registration pertaining
15 to the Eighteenth Photograph is attached hereto as Exhibit “J.” The Registration
16 indicates that the Certificate of Registration covers an Internet Website; however,
17 as evidenced by the deposit materials submitted with the copyright registration, the
18 photograph at issue is covered by such Registration and therefore afforded
19 protection/registration under the Copyright Act by virtue of this Certificate of
20 Registration.
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1 ***The Nineteenth Photograph***

2 48. In 1993, Plaintiff created a professional photograph of actors Gillian
3 Anderson and David Duchovny titled “19950310_X-
4 Files_The_MGP_Fox_TS_0003” (the “Nineteenth Photograph”). A copy of the
5 Nineteenth Photograph is displayed below:
6



21 49. The Nineteenth Photograph was registered by Plaintiff with the
22
23 Register of Copyrights on January 22, 2017 and was assigned Registration No. VA
24
25

1 2-030-741. A true and correct copy of the Certificate of Registration pertaining to
2 the Nineteenth Photograph is attached hereto as **Exhibit “K.”**
3

4 ***The Twentieth Photograph***

5 50. In 1993, Plaintiff created a professional photograph of actors Gillian
6 Anderson and David Duchovny titled “19930625_X-Files_The_MGP_0010” (the
7
8 “Twentieth Photograph”). A copy of the Twentieth Photograph is displayed
9 below:



23 51. The Twentieth Photograph was registered by Plaintiff with the
24 Register of Copyrights on January 22, 2017 and was assigned Registration No. VA
25

1 2-030-741. A true and correct copy of the Certificate of Registration pertaining to
2 the Twentieth Photograph is attached hereto as **Exhibit “K.”**
3

4 ***The Twenty-First Photograph***

5 52. In 1995, Plaintiff created a professional photograph of actors Gillian
6 Anderson and David Duchovny titled “19950310_X-Files_The_MGP_0007” (the
7
8 “Twenty-First Photograph”). A copy of the Twenty-First Photograph is displayed
9 below:

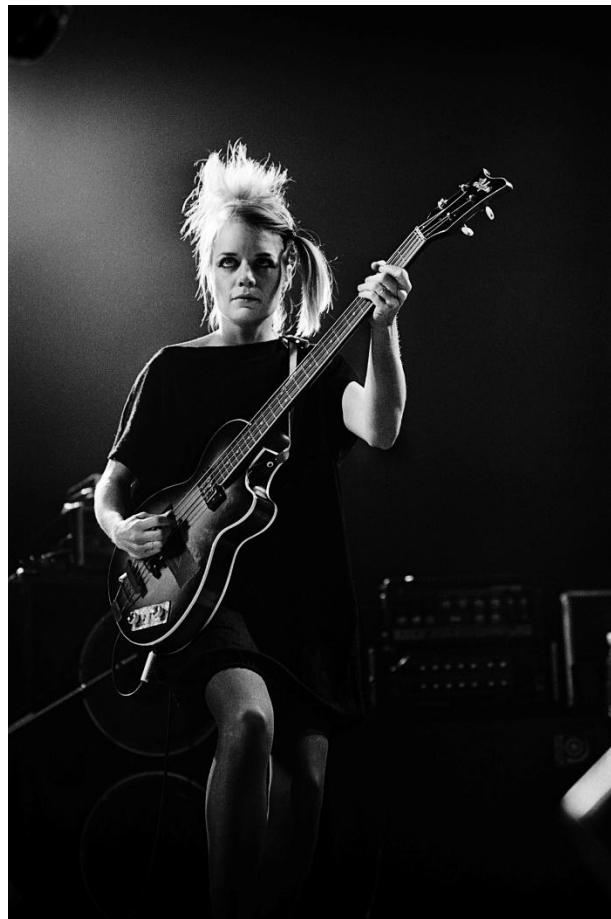


21 53. The Twenty-First Photograph was registered by Plaintiff with the
22
23 Register of Copyrights on September 8, 2003 and was assigned Registration No.
24
25

1 VA 1-232-596. A true and correct copy of the Certificate of Registration pertaining
2 to the Twenty-First Photograph is attached hereto as **Exhibit "L."**
3

4 ***The Twenty-Second Photograph***

5 54. In 2010, Plaintiff created a professional photograph of bass player
6 Tina Weymouth of American band Talking Heads titled
7
8 “19800101_Talking_Heads_MGP_0008” (the “**Twenty-Second Photograph**”). A
9 copy of the Twenty-Second Photograph is displayed below:
10



1 55. The Twenty-Second Photograph was registered by Plaintiff with the
2 Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-
3 431-699. A true and correct copy of the Certificate of Registration pertaining to
4 the Twenty-Second Photograph is attached hereto as **Exhibit “M.”**
5
6

7 56. The First Photograph, Second Photograph, Third Photograph, Fourth
8 Photograph, Fifth Photograph, Sixth Photograph, Seventh Photograph, Eighth
9 Photograph, Ninth Photograph, Tenth Photograph, Eleventh Photograph, Twelfth
10 Photograph, Thirteenth Photograph, Fourteenth Photograph, Fifteenth Photograph,
11 Sixteenth Photograph, Seventeenth Photograph, Eighteenth Photograph,
12 Nineteenth Photograph, Twentieth Photograph, Twenty-First Photograph, and
13 Twenty-Second Photograph are collectively referred to herein as the “**Work.**”
14
15

16 57. Plaintiff is the owner of the Work and has remained the owner at all
17 times material hereto.
18

19 **II. Defendant’s Unlawful Activities**

20 58. Defendant is an online social media company focused on short-form
21 video hosting services.
22

23 59. Defendant hosts user-submitted videos through its social media app
24 (e.g., <https://apps.apple.com/us/app/tiktok/id835599320>) and website
25

1 (<https://www.tiktok.com/>).
2

3 60. On multiple dates after each photograph comprising the Work was
4 registered, one or more of Defendant's users caused each photograph comprising
5 the Work to be displayed/published on Defendant's social media app/website
6 platform.
7

8 61. A true and correct copy of screenshots of Defendant's website,
9 displaying the copyrighted Work, is attached hereto as **Exhibit "N."**
10

11 62. Following discovery of the photographs comprising the Work on
12 Defendant's website/social media app, Plaintiff fully complied with 17 U.S.C. §
13 512 by sending multiple Digital Millennium Copyright Act (the "DMCA")
14 takedown notices to Defendant through its designated agent.
15

16 63. Notwithstanding Plaintiff's multiple attempts (over a period of
17 months) to get Defendant to take down the unauthorized use of the Work,
18 Defendant failed and/or refused to remove the Work from its website/social media
19 app.
20

21 64. All conditions precedent to this action have been performed or have
22 been waived.
23

COUNT I – VICARIOUS COPYRIGHT INFRINGEMENT

24

25 65. Plaintiff re-alleges and incorporates paragraphs 1 through 64 as set
forth above.
26

1 66. Each photograph comprising the Work is an original work of
2 authorship, embodying copyrightable subject matter, that is subject to the full
3 protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).
4

5 67. Plaintiff owns a valid copyright in each photograph comprising the
6 Work, having registered the Work with the Register of Copyrights and owning
7 sufficient rights, title, and interest to such copyright to afford Plaintiff standing to
8 bring this lawsuit and assert the claim(s) herein.
9

10 68. As a result of Plaintiff's reproduction, distribution, and public display
11 of the Work, one or more of Defendant's users had access to the Work prior to its
12 own reproduction, distribution, and public display of the Work on Defendant's
13 application/website platform.
14

15 69. Such user(s) reproduced, distributed, and publicly displayed the Work
16 without authorization from Plaintiff.
17

18 70. By its actions, such user(s) infringed and violated Plaintiff's exclusive
19 rights in violation of the Copyright Act, 17 U.S.C. § 501, by reproducing,
20 distributing, and publicly displaying the Work for its own commercial purposes.
21

22 71. The Ninth Circuit has explained that one "infringes vicariously by
23 profiting from direct infringement while declining to exercise a right to stop or
24 limit it." Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146, 1173 (9th Cir.
25

1 2007). The plaintiff must establish that the defendant exercises the requisite
2 control over the direct infringer and that the defendant derives a direct financial
3 benefit from the direct infringement. Id. A defendant exercises control over a
4 direct infringer when he has both a legal right to stop or limit the directly
5 infringing conduct, as well as the practical ability to do so. BackGrid USA, Inc.
6 v. Twitter, Inc., No. CV 22-9462-DMG (ADSx), 2024 U.S. Dist. LEXIS 103090,
7 *13 (C.D. Cal. June 7, 2024) (denying a Motion to Dismiss claims for direct,
8 contributory, and vicarious infringement). The Ninth Circuit has found that it is
9 sufficient to allege that the defendant had the ability to identify and remove the
10 infringing work. See Stross v. Zillow Inc., No. 2:21-cv-01489-RAJ-BAT, 2022
11 U.S. Dist. LEXIS 147735, *21 (W.D. Wash. June 21, 2022) (“[I]t is sufficiently
12 alleged that Zillow had the technical ability to screen or identify the Works based
13 on the URLs included in the DMCA Takedown Notice”).
14

15 72. Here, Plaintiff sent Defendant multiple DMCA takedown notices that
16 fully complied with 17 U.S.C. § 512. Specifically, the DMCA takedown notices
17 set forth each of the required elements of 17 U.S.C. § 512(c)(3)(A)(i) – (vi),
18 including an electronic signature of Plaintiff, identification of each photograph at
19 issue, identification of the material claimed to be infringed (and providing a
20

1 specific URL to the infringing material), information reasonably sufficient to
2 permit Defendant to contact Plaintiff (her address, telephone number, and e-mail
3 address), a statement that Plaintiff had a good faith belief that use of the material
4 on Defendant's platform was not authorized by Plaintiff, and a statement that the
5 information in the notification was accurate and, under penalty of perjury, that
6 Plaintiff had an exclusive right being infringed.

73. Plaintiff submitted such infringement notices via Defendant's own
9 website (<https://www.tiktok.com/legal/report/Copyright>) that Defendant
10 established for submission of DMCA-related claims. Plaintiff likewise submitted
11 the notices to Defendant via e-mail (Copyright@tiktok.com) to Defendant's
12 DMCA designated agent (see
14 <https://dmca.copyright.gov/dmca/publish/history.html?search=tiktok&id=865aa3b9cfc92633fac4f1457decfdcf>) as an extra means of notifying Defendant.
16

74. Defendant has the right to stop or limit infringement on its
18 application/website platform. Indeed, Defendant publishes its policies with
19 respect to infringement on its application/website platform (at
20 <https://support.tiktok.com/en/safety-hc/account-and-user-safety/copyright>),
22 noting that Defendant has adopted a policy of terminating user accounts if found
23 to be repeated infringers.
25

1 75. Of note, Defendant provides users with instructions on how to report
2 intellectual property infringement and what information will be required to do so.
3
4 Moreover, Defendant provides different ways to report infringements (in-app
5 reporting and submission of an online form via the website).

6 76. Defendant received a direct financial benefit from its user(s)'
7 infringement of the Work. The unauthorized use/display of the Work on
8 Defendant's platform (mobile phone application and website) acted as a draw for
9 other customers/end-users to engage with Defendant. Defendant materially
10 benefited from the increased engagement. The rise in the number of users engaging
11 with Defendant's platform resulted in increased traffic on the above-mentioned
12 platform, leading to advertisements making additional impressions, and yielding
13 in-platform purchases. In-platform purchases (e.g., purchases made through the
14 TikTok shop) consequently result in monies being paid to Defendant.

15 77. Defendant's vicarious infringement was willful as it acted with actual
16 knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's
17 copyright. Notably, Defendant itself utilizes a copyright disclaimer on its website
18 ("© 2024 TikTok"), indicating that Defendant understands the importance of
19 copyright protection and intellectual property rights and is actually representing
20 that it owns each of the photographs published on its website. See, e.g., Bell v.
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1 ROI Prop. Grp. Mgmt., LLC, No. 1:18-cv-00043-TWP-DLP, 2018 U.S. Dist.
2 LEXIS 127717, at *3 (S.D. Ind. July 31, 2018) (“[T]he willfulness of ROI’s
3 infringement is evidenced by the fact that at the bottom of the webpage on which
4 the Indianapolis photograph was unlawfully published appeared the following:
5 ‘Copyright © 2017.’ By placing a copyright mark at the bottom of its webpage that
6 contained Mr. Bell’s copyrighted Indianapolis Photograph, Mr. Bell asserts ROI
7 willfully infringed his copyright by claiming that it owned the copyright to
8 everything on the webpage.”); John Perez Graphics & Design, LLC v. Green Tree
9 Inv. Grp., Inc., Civil Action No. 3:12-cv-4194-M, 2013 U.S. Dist. LEXIS 61928,
10 at *12-13 (N.D. Tex. May 1, 2013) (“Once on Defendant’s website, Defendant
11 asserted ownership of Plaintiff’s Registered Work by including a copyright notice
12 at the bottom of the page. Based on these allegations, the Court finds Plaintiff has
13 sufficiently pled a willful violation....”).
14
15

16 78. Additionally, Defendant is registered under the Digital Millennium
17 Copyright Act (“DMCA”) and thus, Defendant clearly understands that
18 professional photography such as the Work is generally paid for and cannot simply
19 be copied from the internet.
20
21

22 79. Plaintiff has been damaged as a direct and proximate result of
23 Defendant’s infringement.
24

25 80. Plaintiff is entitled to recover her actual damages resulting from

1 Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to
2 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a
3 disgorgement of Defendant's profits from infringement of the Work, which
4 amounts shall be proven at trial.

6 81. Alternatively, and at Plaintiff's election, Plaintiff is entitled to
7 statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed
8 proper by the Court.
9

10 82. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover its
11 costs and attorneys' fees as a result of Defendant's conduct.
12

13 83. Defendant's conduct has caused, and any continued infringing
14 conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by
15 the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502,
16 Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's
17 exclusive rights under copyright law.
18

19 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

20 a. A declaration that Defendant has infringed Plaintiff's copyrights in the
21 Work;
22 b. A declaration that such infringement is willful;
23 c. An award of actual damages and disgorgement of profits as the Court deems
24 proper or, at Plaintiff's election, an award of statutory damages for willful
25

1 infringement up to \$150,000.00 for each photograph comprising the Work;

2 d. Awarding Plaintiff her costs and reasonable attorneys' fees pursuant to 17

3 U.S.C. § 505;

4 e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing

5 amounts;

6 f. Permanently enjoining Defendant, its employees, agents, officers, directors,

7 attorneys, successors, affiliates, subsidiaries and assigns, and all those in

8 active concert and participation with Defendant, from directly or indirectly

9 infringing Plaintiff's copyrights or continuing to display, transfer, advertise,

10 reproduce, or otherwise market any works derived or copied from the Work

11 or to participate or assist in any such activity; and

12

13 g. For such other relief as the Court deems just and proper.

14

15 **COUNT II – CONTRIBUTORY COPYRIGHT INFRINGEMENT**

16 84. Plaintiff re-alleges and incorporates paragraphs 1 through 64 as set

17 forth above.

18 85. Each photograph comprising the Work is an original work of

19 authorship, embodying copyrightable subject matter, that is subject to the full

20 protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

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1 86. Plaintiff owns a valid copyright in each photograph comprising the
2 Work, having registered the Work with the Register of Copyrights and owning
3 sufficient rights, title, and interest to such copyright to afford Plaintiff standing to
4 bring this lawsuit and assert the claim(s) herein.
5

6 87. As a result of Plaintiff's reproduction, distribution, and public
7 display of the Work, one or more of Defendant's users had access to the Work
8 prior to its own reproduction, distribution, and public display of the Work on
9 Defendant's application/website platform.
10

12 88. Such user(s) reproduced, distributed, and publicly displayed the
13 Work without authorization from Plaintiff.
14

15 89. By its actions, such user(s) infringed and violated Plaintiff's
16 exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501.
17

18 90. One who, with knowledge of the infringing activity, induces, causes
19 or materially contributes to the infringing conduct of another may be liable as a
20 contributory infringer. See Ellison v. Robertson, 357 F.3d 1072, 1076. In other
21 words, a party may be held liable for contributory infringement if it "(1) has
22 knowledge of another's infringement and (2) either (a) materially contributes to
23 or (b) induces that infringement. BackGrid at *9 (C.D. Cal. June 7, 2024). A
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1 defendant who receives a compliant DMCA notice and fails to comply satisfies
2 the knowledge prong. Id.
3

4 91. Here, Plaintiff sent Defendant multiple DMCA takedown notices that
5 fully complied with 17 U.S.C. § 512. The information provided by Plaintiff was
6 sufficient for Defendant to identify the user(s) who infringed the Work.
7 Specifically, the DMCA takedown notices listed the Work infringed, the infringing
8 activity, and the location of the infringing activity on the Defendant's platform.
9 Upon receipt of the DMCA takedown notices, Defendant did in fact become aware
10 of the identity of the user(s) who infringed the Work.
11

12 92. Notwithstanding these DMCA takedown notices, Defendant failed to
13 take any action to remove the Work. Defendant therefore had actual knowledge of
14 its user(s)' infringement of the Work.
15

16 93. A plaintiff properly alleges the material contribution element if he can
17 show that a defendant could have taken simple measures to prevent further damage
18 to copyrighted works yet continued to provide access to infringing works. Stross
19
20 v. Meta Platforms, Inc., No. 2:21-cv-08023-MCS-AS, 2022 U.S. Dist. LEXIS
21 100689, *11 (C.D. Cal. Apr. 6, 2022); Umg Recordings, Inc. v. Grande Commc'n
22
23 Networks, L.L.C., No. 23-50162, 2024 U.S. App. LEXIS 25505, at *56 (5th Cir.
24
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1 Oct. 9, 2024) (affirming jury verdict of contributory infringement against ISP that
2 received DMCA notices with respect to the IP addresses of its infringing users but
3 failed to take any action to suspend and/or remove services to those users).

5 94. Defendant could have taken simple measures to prevent further
6 damage to copyrighted works yet continued to provide access to infringing works.
7 Defendant received multiple, fully compliant DMCA takedown notices yet took
8 no action to remove the infringing material from its application/website platform.

11 95. Defendant is a multinational corporation with in-house legal staff.
12 Defendant easily could have dedicated sufficient resources to monitoring DMCA
13 takedown notices and taking timely action to remove infringing conduct, yet
14 Defendant took no such simple measures.

16 96. Defendant's contributory infringement was willful as it acted with
17 actual knowledge or reckless disregard for whether its conduct infringed upon
18 Plaintiff's copyright. Notably, Defendant itself utilizes a copyright disclaimer on
19 its website ("Copyright © 2024 Tik Tok"), indicating that Defendant understands
20 the importance of copyright protection and intellectual property rights and is
21 actually representing that it owns each of the photographs published on its website.
22 See, e.g., Bell v. ROI Prop. Grp. Mgmt., LLC, No. 1:18-cv-00043-TWP-DLP,

1 2018 U.S. Dist. LEXIS 127717, at *3 (S.D. Ind. July 31, 2018) (“[T]he willfulness
2 of ROI’s infringement is evidenced by the fact that at the bottom of the webpage
3 on which the Indianapolis photograph was unlawfully published appeared the
4 following: ‘Copyright © 2017.’ By placing a copyright mark at the bottom of its
5 webpage that contained Mr. Bell’s copyrighted Indianapolis Photograph, Mr. Bell
6 asserts ROI willfully infringed his copyright by claiming that it owned the
7 copyright to everything on the webpage.”); John Perez Graphics & Design, LLC
8 v. Green Tree Inv. Grp., Inc., Civil Action No. 3:12-cv-4194-M, 2013 U.S. Dist.
9 LEXIS 61928, at *12-13 (N.D. Tex. May 1, 2013) (“Once on Defendant’s website,
10 Defendant asserted ownership of Plaintiff’s Registered Work by including a
11 copyright notice at the bottom of the page. Based on these allegations, the Court
12 finds Plaintiff has sufficiently pled a willful violation....”).
13

14 97. Additionally, Defendant is registered under the Digital Millennium
15 Copyright Act (“DMCA”) and thus, Defendant clearly understands that
16 professional photography such as the Work is generally paid for and cannot simply
17 be copied from the internet.
18

19 98. Plaintiff has been damaged as a direct and proximate result of
20 Defendant’s contributory infringement.
21
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99. Plaintiff is entitled to recover her actual damages resulting from Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of the Work, which amounts shall be proven at trial.

100. Alternatively, and at Plaintiff's election, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed proper by the Court.

101. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover her costs and attorneys' fees as a result of Defendant's conduct.

102. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has vicariously infringed Plaintiff's copyrights in the Work;

- 1 b. A declaration that such contributory infringement is willful;
- 2
- 3 c. An award of actual damages and disgorgement of profits as the Court deems
- 4 proper or, at Plaintiff's election, an award of statutory damages for each
- 5 photograph comprising the Work;
- 6
- 7 d. Awarding Plaintiff her costs and reasonable attorneys' fees pursuant to 17
- 8 U.S.C. § 505;
- 9
- 10 e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing
- 11 amounts;
- 12
- 13 f. Permanently enjoining Defendant, its employees, agents, officers, directors,
- 14 attorneys, successors, affiliates, subsidiaries and assigns, and all those in
- 15 active concert and participation with Defendant, from directly or indirectly
- 16 infringing Plaintiff's copyrights or continuing to display, transfer, advertise,
- 17 reproduce, or otherwise market any works derived or copied from the Work
- 18 or to participate or assist in any such activity; and
- 19
- 20 g. For such other relief as the Court deems just and proper.
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- 22
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DATED: April 1, 2025.

COPYCAT LEGAL PLLC

24 By: /s/ Lauren M. Hausman

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